

Remarks/Arguments

This Response is provided in response to the non-final Office Action mailed May 11, 2009, in which the Examiner rejected claims 8-14 under 35 U.S.C. § 102(b) as being anticipated by the prior art.

Specification Amendments

The skilled artisan would understand that centerline 54 of FIG. 6 is a longitudinal centerline 54. One skilled in the art would understand that a centerline is a line running through the center of an object. A skilled artisan would further understand that a longitudinal line runs lengthwise through an object, and centerline 54 runs lengthwise through handle 16. Therefore, one skilled in the art would understand that centerline 54 is a longitudinal centerline 54 of handle 16.

The amendments to the specification are in accordance with MPEP 2163.06:

"Lack of written description is an issue that generally arises with respect to the subject matter of a claim. If an applicant amends or attempts to amend the abstract, specification or drawings of an application, an issue of new matter will arise if the content of the amendment is not described in the application as filed. Stated another way, information contained in any one of the specification, claims or drawings of the application as filed may be added to any other part of the application without introducing new matter."
(Emphasis added)

The information replicated into the written specification was presented in the drawings as filed, accordingly no new matter has been added, rather the subject matter of the invention has been presented in the written specification to underscore the understanding of the subject matter of the claimed invention by the skilled artisan, to enable that artisan to make and use the same, and to enhance the understanding of the subject matter of the claimed invention by the non-skilled artisan.

Claim Amendments

The Applicant has amended independent claim 8 in response to the non-final Office Action mailed May 11, 2009. The amendment does not narrow the scope of claims but rather has been made to more clearly point out and distinctly claim the subject matter considered by the Applicant as the invention. Further, no new matter has been introduced

by the claim amendment and support for the amendment may be found by viewing FIG. 6, with specific attention to reference numerals 16 and 54; and reading specification at page 8, lines 15-18.

Rejection of Claims 8-14 Under 35 U.S.C. § 102(b)

In the Office Action mailed May 11, 2009, the Examiner rejected claims 8-14 under 35 U.S.C. § 102(b) as being anticipated by United States Design Patent No. D119,400 issued to O. E. Skelton, (Skelton '400). The Applicant respectfully traverses this rejection.

Legal Precedent

Anticipation means a lack of novelty, and is a question of fact which is reviewed by the reviewing court using a substantial evidence standard. *Brown v. 3M*, 60 USPQ2d 1375 (Fed. Cir. 2001); *Baxter Int'l, Inc. v. McGaw, Inc.*, 47 USPQ2d 1225 (Fed. Cir. 1998). To anticipate a claim, every limitation of the claim must be found in a single prior art reference, arranged as in the claim. *Karsten Mfg. Corp. v. Cleveland Golf Co.*, 58 USPQ2d 1286 (Fed. Cir. 2001). *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 122 S.Ct. 1831 (2002). Each such limitation must be found either expressly or inherently in the prior art reference. *Schering Corporation v. Geneva Pharmaceuticals, Inc.*, 02-1540, Decided August 1, 2003 (Fed. Cir. 2003). Accordingly, the Applicant needs only point to a single element not found in the cited reference to demonstrate that the cited reference fails to anticipate the claimed subject matter.

Independent claim 8 generally features “an appendage support member projecting laterally from the main body portion, the *appendage support member comprising a top surface that provides a concave recess wherein a principle axis of the concave recess passing through a center of curvature and a vertex of the concave recess is substantially perpendicular to and offset from a longitudinal centerline of the main body portion*, and the appendage support member having a substantially continuous convex shaped surface over a majority of the bottom surface to provide an ergonomic support surface for an appendage of a user.”

The Skelton '400 reference **fails to disclose an appendage support member comprising a vertex of the concave recess is substantially perpendicular to and offset from a longitudinal centerline of the main body portion**, as recited by claim 8.

The Examiner has pointed specifically to FIG. 1 of Skelton '400 as teaching an appendage support member with principle axis of concave recess *substantially parallel* to the *longitudinal centerline* of the handle, and to FIG. 3 of Skelton '400 as teaching a centerline of the main body ("not necessarily a longitudinal centerline") that is *substantially perpendicular* to the longitudinal centerline of the handle. *See* Office Action page 2, paragraph numbered "2."; and Examiner annotated FIGS. 1 & 3 on page 4. The skilled artisan would understand that the principle axis of concave recess defined by the Examiner in the Skelton '400 reference is **not substantially perpendicular to a longitudinal centerline of the main body portion**. One skilled in the art would further understand that a *longitudinal centerline of the main body portion* in the handle of Skelton '400 would be *substantially parallel* to the vertex of the concave recess on the support member shown in FIG. 1 of Skelton '400.

Therefore, the skilled artisan would understand that the Skelton '400 reference **fails** to disclose *an appendage support member comprising a vertex of the concave recess is substantially perpendicular to and offset from a longitudinal centerline of the main body portion*.

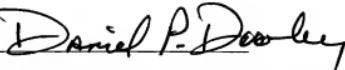
Furthermore, due to at least the dependencies of claims 9-14 on independent claim 8, the cited reference cannot render anticipated claims 9-14. For at least these reasons, the Applicant request withdrawal of the rejection of claims 8-14 under 35 U.S.C. § 102(b), and passage of same to allowance.

Conclusion

The Applicant respectfully requests reconsideration and allowance of all of the claims pending in the application. This Response is intended to be a complete response to the non-final Office Action mailed May 11, 2009.

Should any questions arise concerning this response, the Examiner is invited to contact the below listed Attorney.

Respectfully submitted,

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